

ENTERED

June 27, 2017

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
VICTORIA DIVISION

PATRICK CLIFF HILMERS,
TDCJ #01043350,
Petitioner,

VS.
LORIE DAVIS, Director,
Texas Department of Criminal Justice,
Correctional Institutions Division,
Respondent.

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§ CIVIL ACTION NO. 6:17-CV-31
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ORDER

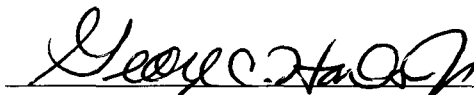
The petitioner, Patrick Cliff Hilmers (TDCJ #01043350), is a state inmate incarcerated in the Texas Department of Criminal Justice - Correctional Institutions Division ("TDCJ"). Hilmers has filed a petition for a writ of habeas corpus under 28 U.S.C. § 2254 challenging the validity of two state criminal convictions (Dkt. 1). Because the petition is his second to challenge the same convictions, the Court will transfer this case to the United States Court of Appeals for the Fifth Circuit. *See In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997); *see also* 28 U.S.C. § 1631. Hilmers previously filed a petition in this Court under Section 2254, which Judge Rainey dismissed as time-barred. *See* Southern District of Texas Case Number 6:07-CV-92 at Dkt. 18. If a federal habeas petition is dismissed as time-barred, a subsequent federal habeas petition challenging the same conviction is a successive petition within the meaning of 28 U.S.C. § 2244(b). *In re Flowers*, 595 F.3d 204, 205 (5th Cir. 2009).

Based on the foregoing, the Court **ORDERS** as follows:

1. The District Clerk shall **TRANSFER** this docket to the United States Court of Appeals for the Fifth Circuit pursuant to 28 U.S.C. § 1631 and the Fifth Circuit's opinion in *In re Epps*.

The Clerk shall provide a copy of this order to the parties and to the Clerk of Court of the United States Court of Appeals for the Fifth Circuit.

SIGNED at Victoria, Texas, on June 27, 2017.



GEORGE C. HANKS, JR.
UNITED STATES DISTRICT JUDGE